IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

WP(C).No. 24180 of 2007(C)

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PETITIONERS:

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1. THE MANAGER, CRESCENT U.P.SCHOOL, KARAPPURAM, EDAKKARA, NILAMBUR, MALAPPURAM DISTRICT.

2. THE PRESIDENT, P.T.A., CRESCENT U.P.SCHOOL, KARAPPURAM P.O. EDAKKARA, NILAMBUR, MALAPPURAM DISTRICT.

3. KUTTAN, MADATHINKAL HOUSE, UCHAKKULAM TRIBAL COLONY, KARAPPURAM P.O., EDAKKARA, NILAMBUR, MALAPPURAM DISTRICT.

BY ADV. SRI.V.K.MOHAMMED YOUSUF

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY SECRETARY, GENERAL EDUCATION, THIRUVANANTHAPURAM.

2. DIRECTOR OF PUBLIC INSTRUCTION, THIRUVANANTHAPURAM.

3. DISTRICT EDUCATIONAL OFFICER, MALAPPURAM.

BY GOVERNMENT PLEADER SRI.A.J.VARGHESE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**A.K.BASHEER, J.**

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W.P.(C)No.24180 OF 2007

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Dated this the 17th day of August, 2007

**JUDGMENT**

Petitioner no.1 is stated to be the manager of an aided upper Primary School at Karappuram in Malappuram district. Petitioner no.2 is the President of PTA and petitioner no.3 is the parent of a student studying in the institution.

2. The grievance of the petitioners is that respondent no.1 is refusing to consider the request made by the petitioners and the local people to accord sanction for up-gradation of the institution as High School. It appears that the application for up-gradation had already been submitted by the petitioners. In Ext.P2 judgment, this court had directed the Government to consider the request of the petitioners when the policy decision in this regard was formulated by the Government. Ext.P8 judgment was rendered in the year 2004. It is now the admitted position that the Government has come out with a set of guidelines/regulations in the matter of grant of sanction for up-gradation, opening of new schools, etc.

3. Therefore, I do not find any reason why the Government shall not consider the request of the petitioner in the light of the above guidelines. This is precisely what the petitioners now pray for. Though learned counsel has invited my attention to the survey report of the departmental officer, the resolution passed by the local Grama Panchayat (Exts.P5, P6 and P7) and also the recommendation made by the local MLA etc, I do not deem it necessary to deal with those contentions at this stage. However, learned counsel stresses the fact that there are several tribal settlements in that area and the children from those communities find it difficult to go to far off schools in pursuit of their studies. The contention of the petitioners is that the up-gradation of the institution will be a boon to these children in particular. Yet again, I refrain from making any comment on this aspect, since in my view the competent authority will have to take into account all the relevant aspects when a decision is being taken in the matter.

4. Therefore, the writ petition is disposed of with a direction to respondent no.1 to consider and pass orders on the

application that is stated to have been submitted by the petitioners. If the Government is of the view that a fresh application has to be submitted by the manager, such a direction shall be issued by the Government, in which event the management shall comply with the same. If such an application is received, the Government shall take a decision thereon in the light of the guidelines contained in the order dated June 13, 2007.

5. While taking such a decision, the Government shall keep in view the survey report, the resolution of the Panchayat, the recommendation made by the MLA and all other departments or organizations. It will be open to the petitioners to produce all relevant materials before the Government at the time of hearing. A decision in the matter shall be taken as expeditiously as possible, at any rate, within two months from the date of receipt of the application, if it is found that the management has to submit a fresh application as indicated above. Needless to mention that an authorized representative of the petitioners shall be afforded sufficient opportunity of hearing before any decision

is taken in the matter. Petitioners shall produce a copy of the writ petition along with a certified copy of the judgment before respondent no.1 for compliance.

Writ petition is disposed of as above.

**A.K.BASHEER, JUDGE**

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